

**SNMP RESEARCH, INC. and SNMP  
RESEARCH INTERNATIONAL, INC.,**

**V.**

## Defendants.

## Jury Demand

I, Olivia L. Weber, declare and attest as follows:

1. I am an attorney at the law firm of Irell & Manella LLP, counsel of record for SNMP Research, Inc. (“SNMP Research” or “Plaintiff”) and SNMP Research International, Inc. (together, “Plaintiffs” or “SNMP”) in this action. I am a member in good standing of the State Bar of California and have been admitted pro hac vice to this Court. I have personal knowledge of the facts set forth in this Declaration and, if called to testify, I could and would testify competently thereto under oath.

2. Attached as Exhibit 1 is a copy of defendant Brocade Communication Systems LLC's ("Brocade") Second Supplemental Responses to SNMP Research, Inc.'s First Set of Interrogatories.

When I refer to infringing” products (or similar such words) in this declaration, I am referring to products that are described in the complaint (Dkt. 1) as well as in Brocade’s response to Interrogatory

1. When I refer to “infringing software,” I am referring to versions of the software contained in the infringing products, which is called the “Fabric Operating System” or “FOS” software which contains SNMP Research Software.

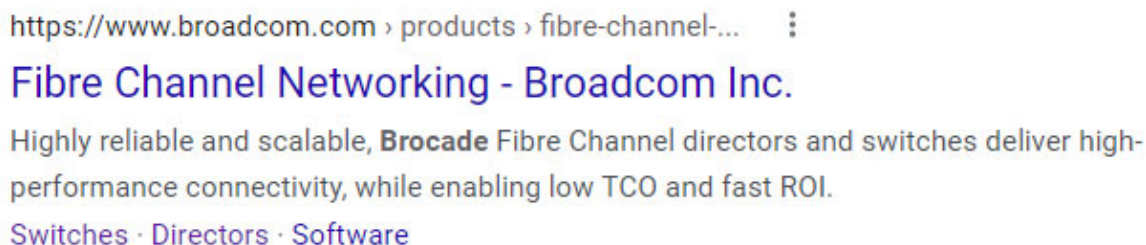
3. Attached as Exhibit 2 is a copy of defendant Broadcom Inc.'s First Supplemental Responses to SNMP Research, Inc.'s First Set of Requests for Admission.

**I. BROADCOM INC.'S DIRECT MARKETING, SALES, AND LICENSING**

**A. Broadcom Inc.'s Website:**

4. Unless otherwise noted, I last visited and downloaded for printing the webpages below on July 20-22, 2022.

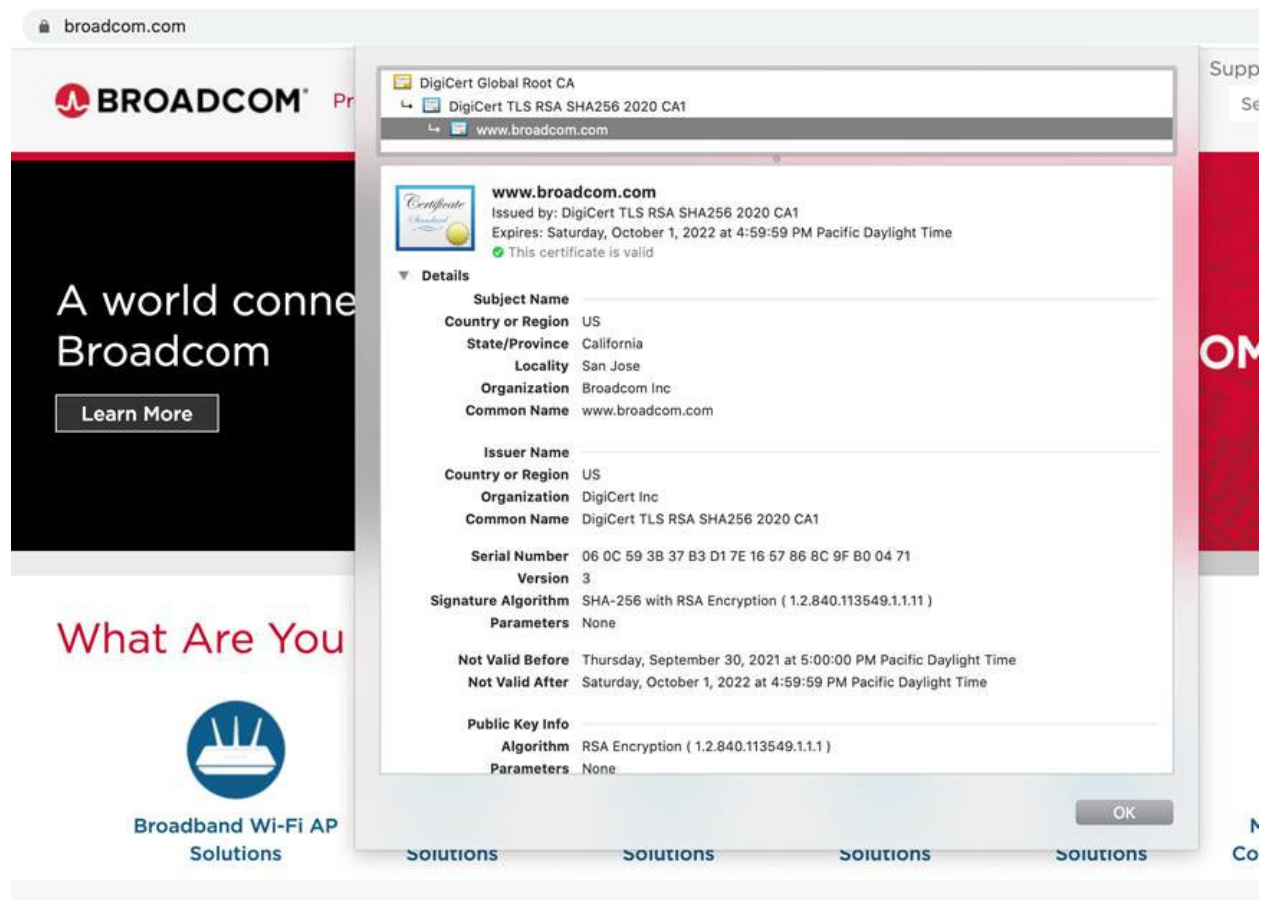
5. When I type [www.brocade.com](http://www.brocade.com) on my web browser, it automatically takes me to [www.broadcom.com](http://www.broadcom.com). In addition, when I search for "Brocade" on Google, attached below is a screenshot for the search results (the first one being "Fibre Channel Networking-Broadcom Inc."):



https://www.broadcom.com › products › fibre-channel-...  
**Fibre Channel Networking - Broadcom Inc.**  
Highly reliable and scalable, **Brocade** Fibre Channel directors and switches deliver high-performance connectivity, while enabling low TCO and fast ROI.  
Switches · Directors · Software

6. Attached as Exhibit 3 is a copy of Broadcom Inc.'s homepage at [www.broadcom.com](http://www.broadcom.com). The following sentence is listed at the bottom of the homepage and at the bottom of every page I navigated thereafter on the [www.broadcom.com](http://www.broadcom.com) website: "The term 'Broadcom' refers to Broadcom Inc. and/or its subsidiaries." I clicked on the Broadcom.com security certificate at the top of the Broadcom Inc. homepage (available at the top of the page in the URL using a Chrome browser for macOS), and it states that the security certificate for the website is registered to Broadcom Inc. DigiCert, the organization that granted the certificate, explains that "[a] digital certificate authenticates the online credentials and identity of a person or organization and allows web users and recipients to know that the data they're inputting is going to a trusted source."

(<https://www.digicert.com/support/resources/faq/public-trust-and-certificates/what-is-a-digital-certificate>.) Attached as Exhibit 4 is a copy of that security certificate. Below is a screenshot of the DigiCert security certificate that refers to “Broadcom Inc.”:



7. At the bottom of Broadcom Inc.’s homepage are links titled “Terms of Use” and “Privacy.”

8. Attached hereto as Exhibit 5 is a copy of the Terms of Use that appear when I clicked the link entitled “Terms of Use” at the bottom of Broadcom Inc.’s homepage

([www.broadcom.com/company/legal/terms-of-use](http://www.broadcom.com/company/legal/terms-of-use)). (See bracketed text) (“**Use of Site.** Broadcom Inc., including its corporate affiliates and subsidiaries, (‘Broadcom’) authorizes you to view and download the materials at this Web site . . .”). Attached hereto as Exhibit 6 is a copy of the same webpage captured by Archive.org on October 10, 2020, containing virtually identical language. (See

bracketed text) (“**Use of Site.** Broadcom Inc., including its corporate affiliates and subsidiaries, (“Broadcom”) authorizes you to view and download the materials at this Web site . . .”).

9. Attached hereto as Exhibit 7 is a copy of a document posted at Broadcom Inc.’s website that I retrieved when clicking the “Privacy” link at the bottom of the homepage and then clicked a second link titled Privacy Policy in the box labeled “Broadcom Global Privacy Statement” (<https://www.broadcom.com/company/legal/privacy/policy>). (See bracketed text) (“Broadcom, Inc. and its global affiliates and subsidiaries (collectively, ‘Broadcom’) value your privacy. . . If you have questions or concerns about this Policy . . . please contact us using the details below: Company name: Broadcom Inc. . . . Postal address: 1320 Ridder Park Drive, San Jose, CA 95131.”). Attached hereto as Exhibit 8 is a copy of the same webpage captured by Archive.org on October 10, 2020, containing virtually identical language. (See bracketed text) (“Broadcom, Inc. and its global affiliates and subsidiaries (collectively, ‘Broadcom’) value your privacy. . . . If you have questions or concerns about this Policy . . . please contact us using the details below: Company name: Broadcom Inc. . . . Postal address: 1320 Ridder Park Drive, San Jose, CA 95131.”).

10. On Broadcom Inc.’s homepage (<https://www.broadcom.com/>), I selected the “How to Buy” button and was given a choice between selecting “Hardware,” “Software,” or “Find a Partner or Distributor.” I selected “Hardware” and was given four options: “Contact Sales,” “Portal Access,” “Terms and Conditions,” and “IT Infrastructure Partners.” I selected “Contact Sales” and the website directed me to a new page titled “Contact Sales” that listed “Broadcom Inc. Americas Sales Office (San Jose)” at the very top of the page. Attached hereto as Exhibit 9 is a copy of the page from Broadcom Inc.’s website at <https://www.broadcom.com/how-to-buy/sales>, which is titled “Contact Sales” and lists “Broadcom Inc. Americas Sales Office (San Jose)” at the very top of the page. Attached hereto as Exhibit 10 is a copy of the same webpage captured by Archive.org on October 10, 2020, containing virtually identical language. (See bracketed text) (titled “Contact Sales” and listed “Broadcom Inc.

Americas Sales Office (San Jose)” at the very top of the page).

11. On the “Contact Sales” page, I selected the “Visit Web Page” link directly under “Broadcom Inc. Americas Sales Office.” I was then directed to another page entitled “Contact Sales Americas” with three pull-down menus for “Content Type,” “Product Family,” and “Location.” I selected “Sales” under “Content Type,” “Fibre Channel Networking” (which includes the infringing products) under “Product Family,” and “United States” under “Location.” I then clicked the button for “View Form.” Attached as Exhibit 11 is a copy of the page from Broadcom Inc.’s website at <https://www.broadcom.com/company/contact/americas-sales-contact-form>, which is titled “Contact Sales Americas” and contains the pull-down menus and “View Form” link described above. Attached hereto as Exhibit 12 is a copy of the same webpage captured by Archive.org on September 7, 2020, containing virtually identical language, the same pull-down menus, and the same “View Form” link described above.

12. After completing the pull-down menus as described above and selecting “View Form,” I was redirected to a page titled “Select Contact Form” for “Contact Sales America,” and this form asked me to provide information including name, address, and city. The form also contained three pull-down menus titled “State,” “Location,” and “Product Family.” I selected “Tennessee,” “United States,” and “Brocade SAN Products,” respectively. The alleged infringing products identified in Brocade’s response to Interrogatory 1 (and Complaint ¶ 64) are Brocade SAN (i.e. storage area network) Products. Attached as Exhibit 13 is a copy of the form from Broadcom Inc.’s website at <https://www.broadcom.com/company/contact/americas-sales-contact-form?fct=Sales&pf=Fibre+Channel+Networking&fc=United+States>, which is titled “Contact Sales Americas” and reflects the information I selected from the three pull-down menus described herein. Below is a screenshot of Exhibit 13:

First Name *	<input type="text"/>
Last Name *	<input type="text"/>
Company Name *	<input type="text"/>
Email Address *	<input type="text"/>
Address Line 1 *	<input type="text"/>
Address Line 2	<input type="text"/>
City *	<input type="text"/>
State	<div>Tennessee ▼</div>
Zip/Postal Code *	<input type="text"/>
Location *	<div>-- Search for location -- ▼</div>
Telephone *	<input type="text"/>
Product Family *	<div>Brocade SAN Products ▼</div>
Part Number *	<input type="text"/>
Would you like us to respond to your comments? * <input checked="" type="checkbox"/>	
How can we assist you? *	
<div><input type="text"/></div>	
I understand and agree to Broadcom's <a href="#">Terms of Use</a> and <a href="#">Privacy Statement</a> * <input type="checkbox"/>	

I could not replicate this exercise exactly, which occurred in a Form, on Archive.org.

(<https://help.archive.org/help/wayback-machine-general-information/>) (“When a dynamic page contains forms, JavaScript, or other elements that require interaction with the originating host, the archive will not contain the original site’s functionality.”).

13. I searched on the Broadcom homepage for the alleged infringing products identified in response to Interrogatory 1. I selected “Products” from the top of the Broadcom homepage described above. I selected “Storage and Systems” and then “Fibre Channel Networking.” Thereafter, I navigated to each of the following products by clicking on either the “Directors” or “Fibre Channel

Networking Switches” links under “Fibre Channel Networking”: Brocade X7 Director, Brocade X6 Director, Brocade 6520; Brocade 7840; Brocade G610; Brocade G620; Brocade 7810; Brocade G720; Brocade G630; and Brocade G730. Attached hereto as Exhibit 14 is a copy of the page from Broadcom Inc.’s website at <https://www.broadcom.com/products/fibre-channel-networking>, which is titled “Fibre Channel Networking” and contains a “Contact Sales” link. This Exhibit also contains links for “Directors” and “Fibre Channel Networking Switches.” Next to each of these links, there is a tab titled “Select Products.” Attached hereto as Exhibit 15 is a copy of the same webpage captured by Archive.org on October 11, 2020, containing virtually identical language, and which is also titled “Fibre Channel Networking,” contains a “Contact Sales” link and links for “Directors” and “Switches,” and next to each of these links is a tab titled “Select Products.”

14. I used Broadcom Inc.’s “Fibre Channel Networking” page (<https://www.broadcom.com/products/fibre-channel-networking>) to navigate to each of the alleged infringing product webpages noted below:

- <https://www.broadcom.com/products/fibre-channel-networking/switches/6520-switch>
- <https://www.broadcom.com/products/fibre-channel-networking/extension/7840-extension-switch>
- <https://www.broadcom.com/products/fibre-channel-networking/switches/g610-switch>
- <https://www.broadcom.com/products/fibre-channel-networking/switches/g620-switch>
- <https://www.broadcom.com/products/fibre-channel-networking/directors/x6-directors>
- <https://www.broadcom.com/products/fibre-channel-networking/extension/7810-extension-switch>
- <https://www.broadcom.com/products/fibre-channel-networking/switches/g720-switch>
- <https://www.broadcom.com/products/fibre-channel-networking/directors/x7-directors>
- <https://www.broadcom.com/products/fibre-channel-networking/switches/g630-switch>



- <https://www.broadcom.com/products/fibre-channel-networking/switches/g730-switch>

15. Each of the above webpages contain the link for “Contact Sales,” which then takes you to the “Broadcom Inc. Americas Sales Office (San Jose)” discussed *supra*. Attached as collective Exhibit 16 is a copy of a combined PDF of the webpages in the above bullet points.

16. I navigated each of the above product links in paragraph 14 above. Each link includes a variety of downloadable documents and information. In the following paragraphs 17-18, I will discuss the webpage pertaining to the infringing product Brocade G630 Switch as one example.

17. Attached hereto as Exhibit 17 is a copy of the page from Broadcom Inc.’s website at <https://www.broadcom.com/products/fibre-channel-networking/switches/g630-switch>, which is titled “Brocade G630 Switch” and also contains a “Contact Sales” button which takes you to the webpages discussed in paragraphs 10, above. This Brocade G630 Switch page provides links to a variety of PDFs, such as the “[PDF] Brocade G630 Product Brief.” The bottom of the webpage also lists “Popular Resources,” which contains “Product Brief” and “White Papers” links to PDFs. The same page also provides Brocade G630 Switch product tabs titled “Overview,” “Specifications,” “Documentation,” and “Optional Products,” and I was able to select each of those tabs, which provided additional Brocade G630 Switch information and other related information. For example, the “Specifications” tab provided details about product “Lifecycle,” “Bandwidth,” “Fibre Channel Performance,” and “Size.” The “Documentation” tab provided links to a variety of documents, including support documents for (among other things) the Fabric Operating System software (which is alleged to be infringing in this case). The “Documentation” tab also provided access to 15 white papers, 28 user guides, and a variety of manuals, installation guides, and technical briefs. The “Optional Products” tab displayed three links to “Brocade Transceiver Modules,” “Brocade G610 Switch,” and “Brocade SX6 Extension Blade.” Attached hereto as collective Exhibit 18 are copies of screen shots of some of the material discussed in this paragraph.



18. Attached hereto as Exhibit 19 is a copy of the page from Broadcom Inc.'s website at <https://www.broadcom.com/products/fibre-channel-networking/switches/g630-switch> that was captured by Archive.org on August 15, 2020, which is titled "Brocade G630 Switch" and contains a "Find a Partner" button. This page provides links to a variety of PDFs, such as the "[PDF] Brocade G630 Switch Product Brief." The bottom of the webpage also lists "Popular Resources," which contains "Product Brief" and "White Papers" links to PDFs. The same page also provides Brocade G630 Switch product "Overview," "Specifications," "Documentation," and "Optional Products," and I was able to select each of those tabs, which provided additional Brocade G630 Switch information and other related information. For example, the "Specifications" tab provided details about product "Lifecycle," "Bandwidth," "Fibre Channel Performance," and "Size." The "Documentation" tab provided links to a variety of documents, including support documents for (among other things) the Fabric Operating System software (which is alleged to be infringing in this case). The "Documentation" tab also provided access to 15 white papers, 28 user guides, and a variety of manuals, installation guides, and technical briefs. The "Optional Products" tab displayed three links to "Brocade Transceiver Modules," "Brocade G610 Switch," and "Brocade SX6 Extension Blade." Attached hereto as collective Exhibit 20 are copies of screen shots of some of the material discussed in this paragraph.

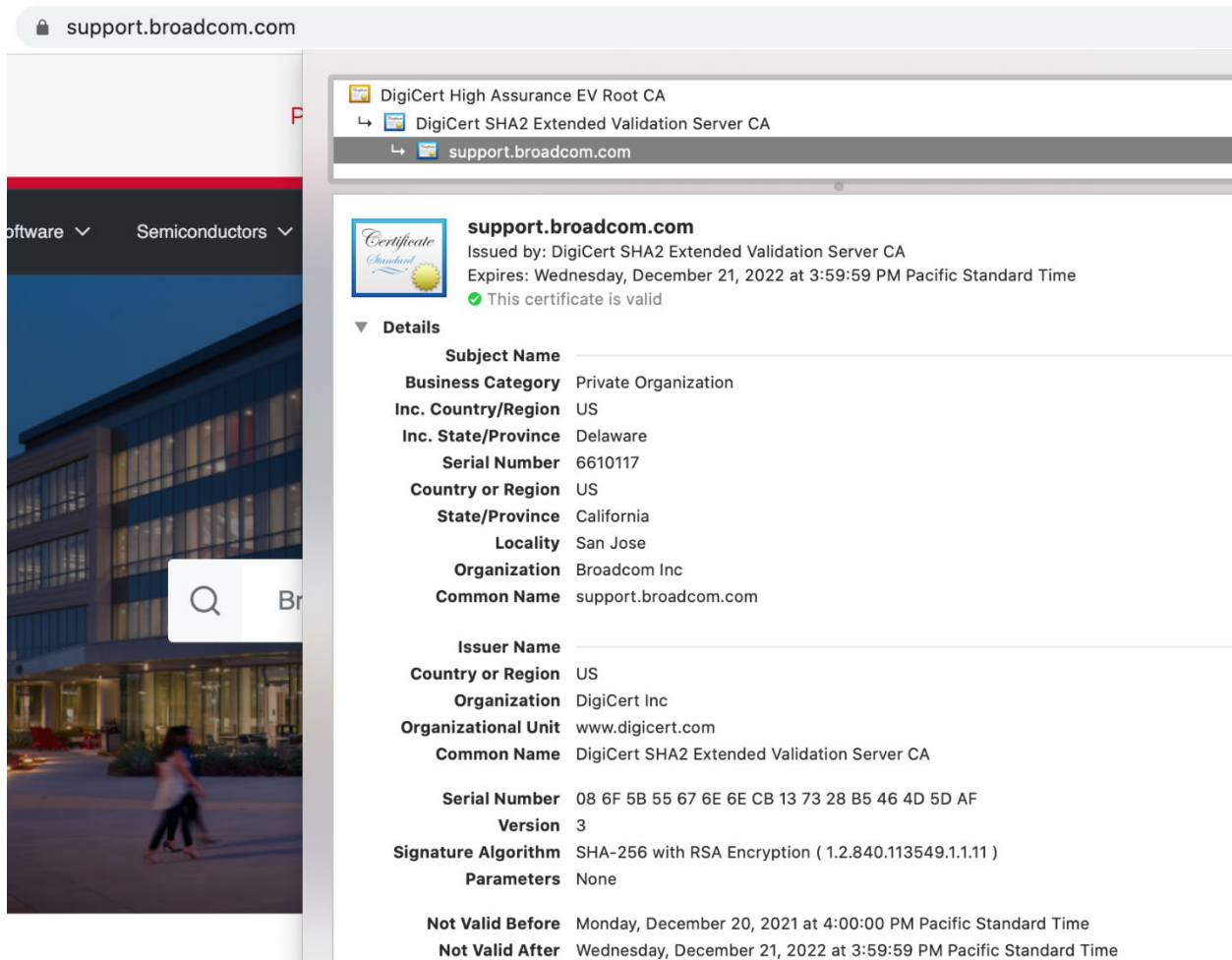
19. Attached hereto as Exhibit 21 is a copy of the "Brocade® Fabric OS® Software Upgrade User Guide, 8.2.x," which is dated March 15, 2021 and was produced in discovery by Brocade. I also accessed a copy of this user guide from Broadcom Inc.'s website at <https://docs.broadcom.com/doc/FOS-821-SW-Upgrade-UG>. This user guide explains how to download and install Fabric OS software and install that software on alleged infringing products. It states that "upgrades are available for customers with support service contracts and partners on the website at <https://www.broadcom.com/mybroadcom>," and to "download the firmware and

documentation files from the website and download the firmware to a switch or a director.”

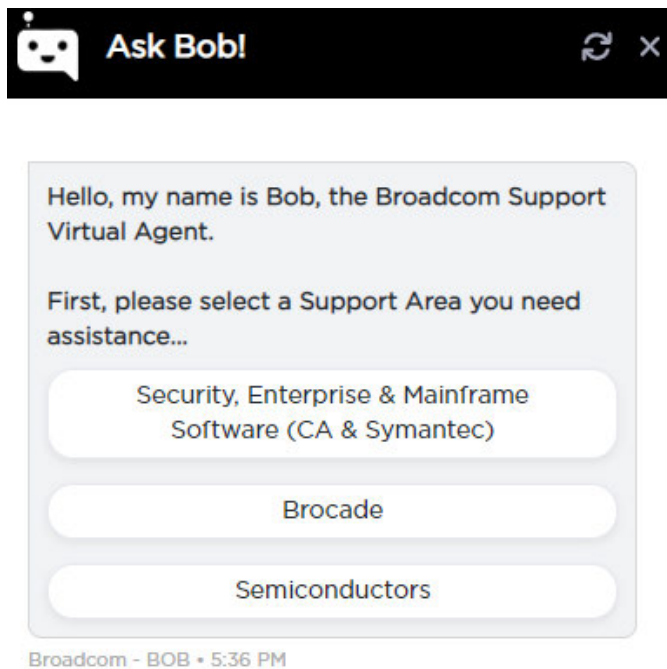
20. Attached hereto as Exhibit 22 is a copy of the Brocade Fabric OS 8.2.1d release notes produced in discovery by Brocade at BROCADE005639. The document is dated April 3, 2020 and instructs that for non-urgent technical support, “the preferred method is to log in to myBroadcom at <https://www.broadcom.com/mybroadcom>. (You must initially register to gain access to the Customer Support Portal.).” It states that in the Support Portal located at <https://www.broadcom.com/mybroadcom>, “You can download software and documentation.” Ex. 22 at BROCADE005644. It also states that “White papers, data sheets are available at [www.broadcom.com](https://www.broadcom.com). Product documentation for all supported releases is available at myBroadcom to registered users. Registered users can also find release notes at myBroadcom.” Ex. 22 at BROCADE005645.

21. On July 21, 2022, I registered for the Support Portal at the URL link referenced in the Brocade Fabric OS 8.2.1d release notes from April 3, 2020 (<https://www.broadcom.com/mybroadcom>). In order to register I had to accept the Broadcom Inc. Terms of Use and Privacy Policy identified above. Shortly after registering, I received an email from an @broadcom.com account to confirm my registration. Once I registered, I was directed to a sign in page, which stated “Broadcom Inc. Customer Sign-In.” Attached as Exhibit 23 is a combined PDF of the foregoing.

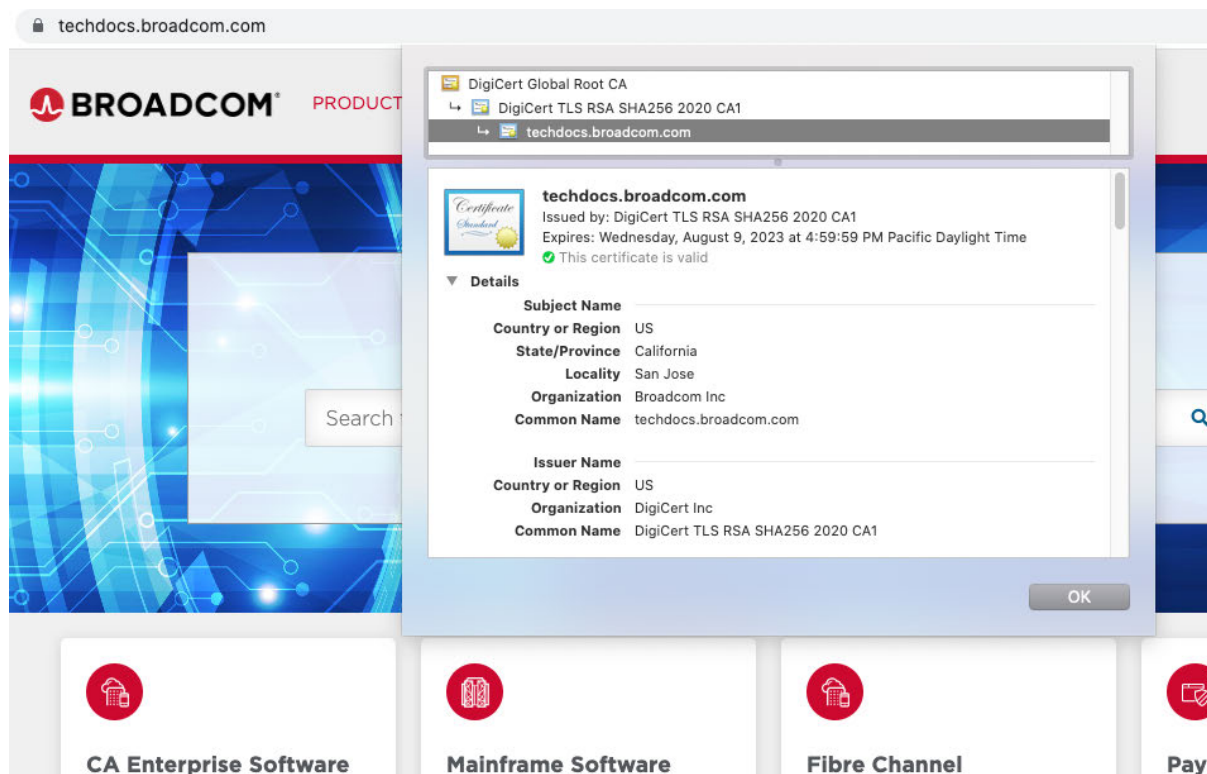
22. Attached as Exhibit 24 is a copy of the Support Portal, after log-in, on Broadcom Inc.'s website at <https://www.broadcom.com/mybroadcom>, which automatically redirected me to <https://support.broadcom.com/>. The security certificate for <https://support.broadcom.com/> indicates that "Broadcom Inc." is the owner of the certificate, and a copy of this certificate is attached as Exhibit 25. Below is a screenshot of the certificate:



23. This Support Portal page is titled “Welcome to Broadcom Support,” and there are links titled “Produced Communities,” “Technical Documentation,” “Virtual Agent,” and “Advanced Support,” among others. This page also included a button for a chat feature with a “Broadcom Support Virtual Agent.” A screenshot of this feature is below:



24. From the Support Portal page, I clicked the link titled “Technical Documentation,” which redirected me to a page called “Tech Docs Portal.” Attached as Exhibit 26 is a copy of a page from Broadcom Inc.’s website at <https://techdocs.broadcom.com/>, which is titled “Tech Docs Portal.” Attached as Exhibit 27 is the security certificate for this webpage, which indicates that “Broadcom Inc.” is the owner of the certificate. Below is a screenshot of the certificate:



25. Among other links, <https://techdocs.broadcom.com/> contains a link titled “Fibre Channel Networking.” I clicked the link titled “Fibre Channel Networking.”

26. Attached as Exhibit 28 is a copy of a page from Broadcom Inc.’s website at <https://techdocs.broadcom.com/us/en/fibre-channel-networking.html>, which is titled “Fibre Channel Networking.” This page contained links for “Directors,” “Switches,” “Extension,” “Fabric OS Software,” among other things. I clicked the link titled “Directors.”

27. Attached as Exhibit 29 is a copy of a page from Broadcom Inc.’s website at <https://techdocs.broadcom.com/us/en/fibre-channel-networking/directors.html>, which is titled “Directors.” The page states “Browse for your product” and lists the following product links: “Brocade X7-8 Director”; “Brocade X7-4 Director”; “Brocade X6-8 Director”; “Brocade X6-4 Director”; “Brocade DCX 8510-8 Director”; and “Brocade DCX 8510-4 Director.” All of these are alleged to be infringing products. In the following paragraph, I will discuss the webpage pertaining to the allegedly infringing product “Brocade X7-8 Director,” as just one example.

28. Attached as Exhibit 30 is a copy of a page from Broadcom Inc.'s website at <https://techdocs.broadcom.com/us/en/fibre-channel-networking/directors/x7-8-director/1-0.html>, which is titled "BROCADE® X7-8 DIRECTOR HARDWARE INSTALLATION GUIDE." This page contains, among other things, links to "Monitoring the Device," "Preparing for the Installation," and other guides, device overview, and feature documents.

29. I went back to the "Fibre Channel Networking" page at <https://techdocs.broadcom.com/us/en/fibre-channel-networking.html> (Exhibit 28) and clicked on the link titled "Fabric OS Software." Attached as Exhibit 31 is a copy of <https://techdocs.broadcom.com/us/en/fibre-channel-networking/fabric-os.html>, which is titled "Fabric OS Software" and contains a variety of links to documents regarding Fabric OS features, instructions, and software upgrades. Once here, I selected the link for "Fabric OS Software Licensing" and then the link for "Software Licensing Configuration Tasks." I navigated to "Generating a License Key or Certificate" using the menu. Attached as Exhibit 32 is a copy of the "Generating a License Key or Certificate" page I accessed using this menu at <https://techdocs.broadcom.com/us/en/fibre-channel-networking/fabric-os/fabric-os-software-licensing/9-1-x/v26533565/v25154973.html>. This "Generating a License Key or Certificate" page instructs that "to generate and obtain a FOS license key or certificate:, 1. Go to <https://www.broadcom.com>, and then select **Log in** drop-down at the top-right of the web page." This page instructs to click the "**Brocade Products**," which redirects to "the **Brocade Products** page," and once there, "[c]lick **licensing**" which "redirect[s] to the **Broadcom Licensing Portal** page." It further instructs to "[r]ead the Broadcom End User License Agreement, and if you agree to the terms, select the **I have read and accept** checkbox." See Ex. 32.

30. Attached as Exhibit 33 is a copy of a page that I accessed from Broadcom's Support Portal at <https://knowledge.broadcom.com/external/article?articleId=193323>, which is titled "How to get access to Product Documents or Software" and states that it was "Updated on 18-06-2020." The

page addresses the issue “How to get access to Product Documents or Software.” For Brocade documents, it states that “If you are **Enterprise user with CUSTOMER** access privilege, then you will be able to access docSAFE -> Downloads screen via Downloads & Documentation” through Broadcom Support.

31. Attached as Exhibit 34 is a copy of a page from Broadcom Inc.’s website, <https://portal.broadcom.com/documents/10180/370691002/Brocade+Support+Quick+Navigation+Guide+v3.pdf/548f1dba-ab7e-0c27-a0ec-ecc653aedc6b?t=1624455288361>, which is titled “Customer Support Portal” and is dated June 2021. It states that “**myBroadcom Customer Support Portal (CSP)**” “is the online platform for Brocade Technical Support customers and partners.” It instructs to “Click Brocade Products to Access the Brocade Business Division Support Portal” and that “**Broadcom Support Portal** –Broadcom has introduced a unified landing page to access support across its multiple business divisions.” (Underlined emphasis added.) With respect to “Software Downloads” for Brocade products, the page states that there is a “Direct link to access software and release notes” but that “[t]his content requires a valid registered account. It is available only to approved Brocade Direct Support (BDS and BSS) customers and authorized Brocade OEM support and qualification teams with valid entitlement on their products.” It explains how to perform software downloads for Brocade products and notes that for “FOS and SANnav Software . . . All supported versions of software are downloadable.” In addition, it specifies the following: “**Broadcom Customer Support Portal (CSP)** <https://portal.broadcom.com/group/support/docsafe/downloads> This site contains supported Fabric OS®(FOS) software, supported SANnav™ Management software, Target Pathselection guides, and release notes.” The Fabric OS software is the alleged infringing software.

32. Attached as Exhibit 35 is a copy of a page that I accessed from the link titled “Learn how to navigate Broadcom Support,” on Broadcom’s Support Portal at <https://support.broadcom.com/documents/36634/37147/Broadcom+Support+Portal+->

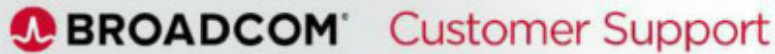


[+Getting+Started+Guide.pdf/bfd4c9c7-4b39-e76b-4f1f-c14db660460d?t=1644105186042](#). This document is titled “Broadcom Support Portal” and provides instructions for how to download FOS software. Among other things, it instructs to “Select the specific release and click **Add** to add the specific software to the Download Manager,” and “Proceed to the Download Manager to complete the download process.” It also includes the following Q&A: **Q: Where is my product?** A: The My Downloads page is specific to the selected division. Click the division drop-down menu from the top navigation panel to select the appropriate division.”

33. I have reviewed documents produced in discovery by Brocade and have seen several emails from an @broadcom.com email address concerning FOS software available for download. As one example, attached as Exhibit 36 is copy of a June 30, 2021 email from a @broadcom.com email address produced by Brocade in discovery. BROCADE00997084. It states: “Dear User, New Software(s) file is available for you to download.” Below is a screenshot of part of that email.

Message

**From:** csp.no-reply@broadcom.com [csp.no-reply@broadcom.com]  
**Sent:** 6/30/2021 9:30:31 PM  
**Subject:** Software(s) available for download



Dear User,

New Software(s) file is available for you to download.

Category	Product	Type	File	Title
Others	Dell MXG610	Software	<a href="#">v9.0.1a_EMB.zip</a>	Fabric OS v9.0.1a EMB for Windows

To access this file, please follow any method below:

1. Click on the link provided in the File column above. You will be prompted to enter your Broadcom CSP User ID/Password before being presented with download options.

OR

2. Logon to <https://portal.broadcom.com/group/support/home> by using your Broadcom CSP User ID/Password. You can navigate to the portal to access any documents or software at any time. To view recently added files, use the "Recent Documents" quick link available from "Recent Activity".

Thank You,  
Broadcom Technical Support

34. Attached via manual filing as Exhibit 219 is a copy of a spreadsheet produced by Brocade in discovery. BROCADE00700297. The filename for this spreadsheet is [REDACTED].xlsx." which I understand—based on the documents set forth [REDACTED]. The columns in this report include "[REDACTED]," "[REDACTED]," "[REDACTED]" "[REDACTED]" [REDACTED], "[REDACTED]," and "[REDACTED]," among other things. [REDACTED] [REDACTED] [REDACTED]. See Declaration of Steve Waldbusser filed concurrently herewith. [REDACTED]

[REDACTED], are listed in other spreadsheets dated 2019-2021 that Brocade has produced,<sup>1</sup> and these spreadsheets also show downloads of infringing software. *See id.* I have not attached these spreadsheets here due to their length, but I can submit them upon request of the Court.

35. I used the geolocation tool located at <https://ip-geolocation.whoisxmlapi.com/> to check the geolocation of the [REDACTED] in Exhibit 219. For example, I used the geolocation tool located at <https://ip-geolocation.whoisxmlapi.com/> to check the geolocation of the [REDACTED] ee has used an IP address [REDACTED] to download infringing FOS release version 8.1.2k for a variety of infringing products, including Brocade 7810, Brocade 6505, Brocade 6510, Brocade 6520, Brocade DCX 8510, Brocade G610, Brocade G620, Brocade G630, and Brocade X6 Director. [REDACTED] [REDACTED]. Attached as Exhibit 37 is a copy of these results that I received by using the geolocation tool.

36. I also used the geolocation tool located at <https://ip-geolocation.whoisxmlapi.com/> to check the geolocation of the [REDACTED] has used an IP address [REDACTED] to download infringing FOS release version 8.1.2e. [REDACTED] [REDACTED] Attached as Exhibit 38 is a copy of these results that I received by using the geolocation tool.

37. Exhibit 219 contains a column titled [REDACTED] Exhibit 39, dated March 15, 2021 and produced by Brocade in discovery (BROCADE0022910), is a copy of Fabric OS User Guide explaining that “Use of all versions of Brocade’s Fabric OS is subject to the terms and conditions of the Brocade Fabric Operating System and Feature Licenses and License Keys End User

---

<sup>1</sup> BROCADE00700292-299.

License Agreement, effective October 1, 2019, as amended by Brocade from time to time. It is the user's responsibility to understand and comply with the terms of the EULA." Accordingly, I understand the term "EULA" [REDACTED] to mean "End User License Agreement."

38. As noted above, Broadcom Inc.'s page for "Generating a License Key or Certificate" (Exhibit 32) also instructs that after being redirected to the Broadcom Licensing Portal page and entering license identification information, "[r]ead the Broadcom End User License Agreement, and if you agree to the terms, select the **I have read and accept** checkbox." Attached as Exhibit 40 is a copy of a document I accessed from the Broadcom Inc. webpage at <https://docs.broadcom.com/doc/FOS-LicenseKeys-OT>, titled "End User License Agreement" and dated March 3, 2020.

**B. Direct Actions Of Broadcom Inc. Personnel:**

39. On Broadcom Inc.'s website, under "Company/About Us/Executives," Jack Rondoni is described as the Senior Vice President and General Manager, Brocade Storage Networking Division at Broadcom. (Emphasis added.) Attached as Exhibit 41 is a copy of the tab Division Executives on this page located at <https://www.broadcom.com/company/about-us/executives>. Attached hereto as Exhibit 42 is a copy of this page that was captured by Archive.org on August 15, 2020.

40. Attached hereto as Exhibit 43 is a copy of a March 8, 2019 email between Mr. Rondoni and his executive administrative assistant, [REDACTED], which both have Broadcom.com email addresses, which was produced by Brocade in discovery. [REDACTED] email signature block states as follows: "Executive Administrative Assistant to Jack Rondoni, GM, Brocade Storage Networks a division of Broadcom Inc. Office: +1.408.433.8793 | **mobile:** [REDACTED] 1320 Ridder Park Drive, MS 1.2E.202, San Jose, CA 95131." This email chain also includes several other individuals, all with @broadcom.com email addresses. The email chain concerns, among other things, a [REDACTED] for a [REDACTED] involving alleged infringing Brocade

products.

41. Attached hereto as Exhibit 44 is a copy of a July 15, 2019 email chain between Jack Rondoni and Greg Farris (both with email addresses at @broadcom.com) produced in discovery by Brocade. In this email chain, Mr. Rondoni writes [REDACTED]

[REDACTED]

[REDACTED] (Emphasis in original.) [REDACTED]

[REDACTED] In its Second Supplemental Interrogatory Responses, Brocade has identified [REDACTED] as one of the original equipment manufacturers who purchase the infringing products and sell them to end users. Ex. 1 at 25.

42. Attached hereto as Exhibit 45 is a copy of a May 22, 2019 email chain between Jack Rondoni, Greg Farris, and Anthony Peiris (each with an email address at @broadcom.com) produced in discovery by Brocade. In this email chain, Mr. Rondoni writes [REDACTED]

[REDACTED]

[REDACTED] (Emphasis in original.) [REDACTED]

[REDACTED] According to numerous documents that I have reviewed in Brocade's production, [REDACTED]

[REDACTED]

43. Attached hereto as Exhibit 46 is a copy of a November 21, 2019 email chain between Jack Rondoni and other individuals (each with an email address at @broadcom.com) produced in discovery by Brocade. In this email chain, Mr. Rondoni writes [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

44. Attached hereto as Exhibit 47 is a copy of an April 23, 2021 email chain between Jack

Rondoni, Greg Farris, and Anthony Peiris (each with an email address at @broadcom.com) produced in discovery by Brocade. In this email chain, Mr. Rondoni writes [REDACTED]

[REDACTED].

45. Attached hereto as Exhibit 48 is a copy of a June 21, 2021 email chain between Jack Rondoni and other individuals (each with an email address at @broadcom.com) produced in discovery by Brocade. In this email chain, Mr. Rondoni writes [REDACTED]

[REDACTED]  
[REDACTED].

46. Attached hereto as Exhibit 49 is a copy of an April 9, 2019 email chain between Jack Rondoni and other individuals (each with an email address at @broadcom.com) produced in discovery by Brocade. In this email chain, Douglas Gibson emails Mr. Rondoni about [REDACTED]

[REDACTED]

[REDACTED] Mr. Gibson's signature block identifies him as follows: "Head of Global Partner / Americas Marketing and Business Development Broadcom Inc. - Brocade Storage Networking Division 1320 Ridder Park Dr., San Jose, CA 95131 T. +1 408.433.8042 M. [REDACTED]"

47. Manually attached to this filing is Exhibit 220, a copy of a spreadsheet titled [REDACTED] [REDACTED] which was attached to the email in Exhibit 49 produced by Brocade in discovery. The metadata for this spreadsheet reflects that it was last modified on April 9, 2019. [REDACTED] tab of the spreadsheet contains several headings, including [REDACTED]

[REDACTED] There is an entry for [REDACTED] [REDACTED] is Dale Hammond.

Attached hereto as Exhibit 50 is a copy of a LinkedIn profile page for Mr. Hammond, which states that he is a "Territory Account Manager at Broadcom Limited," Broadcom Inc.'s predecessor, from November 2017 to the present. The profile page also states that Mr. Hammond is a "Target Account

Manager (D/C San)” for Brocade Communications Systems Inc. from June 2000 to present.

48. Manually attached to this filing is Exhibit 221, a copy of a spreadsheet titled [REDACTED] [REDACTED] last modified on January 11, 2019 and produced by Brocade in discovery. This spreadsheet contains several columns including [REDACTED]

[REDACTED] This spreadsheet lists [REDACTED]

Mr. Hammond is listed as the [REDACTED]

49. Attached hereto as Exhibit 51 is a PDF copy of a PowerPoint presentation produced by Brocade, which contains the word “Broadcom” on the bottom of every page, along with the following sentence: “The term ‘Broadcom’ refers to Broadcom Limited and/or its subsidiaries.” The PDF copy in Exhibit 51 includes the author presentation notes at the bottom of each page, which Adobe Acrobat included when I printed this presentation to PDF. The metadata that Brocade provided for this presentation indicates that it was last modified on August 27, 2020. On a slide titled “[REDACTED] [REDACTED]” it states that “Phil Weed” is the person assigned to the Southeast region. A map directly next to Phil Weed’s name depicts Tennessee as included in the Southeast region. All 50 states are included in this map. Appendix 9 discusses “[REDACTED] [REDACTED]” and lists several infringing products, including the Brocade 7840 Switch.

50. Attached hereto as Exhibit 52 is a copy of a September 26, 2020 email, produced in Brocade’s production, from Martin Skagen (@broadcom.com) to other individuals with @broadcom.com email addresses. In this email, Martin Skagen states: “[REDACTED] [REDACTED]”



51. Attached hereto as Exhibit 53 is a copy of Broadcom Inc.'s "FQ4 2018 Earnings Call Transcripts," dated December 6, 2018. A copy of this transcript was purchased, at my direction, from S&P Global Market Intelligence on July 6, 2022. A colloquy between an analyst at Morgan Stanley and Broadcom Inc.'s CEO and Executive Director, Hock E. Tan, is included on page 13 (see bracketed text). Among other things, Mr. Tan states that he has "met with quite a few CIOs, Chief Operating Officers and CIOs of . . . **the largest end-use customers of Brocade as well, which is SAN switching.**" He further states that "It's also the go-to market model that would be very much simplified as **we now reach out to those end-user customers who are. . . in Brocade** and who put indirectly – are building or buying dig data centers, compute storage, networking indirectly from us. So there is a lot of synergies, and we have begun the process of engaging in a dialogue." (Emphasis added).

52. Attached hereto as Exhibit 54 is a copy of an August 2018 email chain between Jack Rondoni and other persons (all with @broadcom.com email addresses), which was produced by Brocade. In this chain, Jack Rondoni states to Scott Shimomura that he went through an attached slide deck in "detail," and Scott Shimomura replies that "I have created a slide 1 overview. [REDACTED]

[REDACTED] Attached hereto as Exhibit 55 is a copy of the slide deck PowerPoint presentation attached to that August 2018 email chain, which was produced by Brocade.

The slide deck file name is "[REDACTED]" and [REDACTED]

[REDACTED] For example, it discusses "[REDACTED]

[REDACTED] Ex. 49.2 (emphasis in original) (see brackets). The slide deck also states that an [REDACTED]

[REDACTED] is to [REDACTED]

*Id.* (see brackets).

53. Attached hereto as Exhibit 56 is a copy of a July 25, 2018 slide deck PowerPoint

presentation with “Broadcom” and “Broadcom Limited” on the bottom of each page, which was produced by Brocade. The file name for this slide deck is

“[REDACTED],” and the metadata provided by Brocade indicates that the author is “Broadcom” and that the title is “Broadcom Ltd Company Overview [sic].” The slide deck discusses “[REDACTED]” and states that there were 6 events, including “[REDACTED].”

54. Attached hereto as Exhibit 57 is a copy of Brocade’s 2020 Statement of Information filed with the California Secretary of State. A copy of the Statement of Information was purchased, at my direction, from the California Secretary of State’s website. Exhibit 57 identifies Brocade’s three “managers” as: (1) Hock E. Tan; (2) Thomas H. Krause; and (3) John Rondoni. The business address is listed as 1320 Ridder Park Drive, San Jose, CA 95131.

55. Attached hereto as Exhibit 58 is a copy of Broadcom Inc.’s 2019 10-K that I accessed from Broadcom Inc.’s website at <https://investors.broadcom.com/static-files/f81d3fbb-755c-44a7-ab4d-8b5fe16633fb>. Exhibit 51 identifies Hock E. Tan as Broadcom Inc.’s Chief Executive Officer and President (see page 17). It identifies Thomas Krause as Broadcom Inc.’s Chief Financial Officer and Principal Financial Officer (see page 129). The principal executive offices were identified as 1320 Ridder Park Drive, San Jose, CA 95131-2313. Jack Rondoni’s title(s) are discussed above.

56. Attached hereto as Exhibit 59 is a copy of Brocade’s 2022 Statement of Information filed with the California Secretary of State. A copy of the Statement of Information was purchased, at my direction, from the California Secretary of State’s website. Exhibit 59 identifies Brocade’s three “managers” as: (1) Hock E. Tan; (2) Charlie B. Kawwas; and (3) John E. Rondoni. The business address was listed as 1320 Ridder Park Drive, San Jose, CA 95131.

57. Attached hereto as Exhibit 60 is a copy of Broadcom Inc.’s 2021 10-K that I accessed from Broadcom Inc.’s website at <https://investors.broadcom.com/static-files/4c92b205-21bd-432f->

a6e1-5e88ae03067b. Exhibit 60 identifies Hock E. Tan as Broadcom Inc.'s President, Chief Executive Officer, and Director (see page 12). It identifies Charlie B. Kawwas as Broadcom Inc.'s Chief Operating Officer (see page 12). The principal executive offices were identified as 1320 Ridder Park Drive, San Jose, CA 95131-2313.

58. Attached hereto as Exhibit 61 is a copy of a LinkedIn profile page for Thomas Krause, which states that he was the President of Broadcom Software Group from December 2020 until quite recently. It states that he was the Broadcom Inc. Chief Financial Officer from October 2016 to December 2020.

**C. Spearheading An Attempt To Secure A License From SNMP:**

59. Attached hereto as Exhibit 62 is a copy of an August and September 2018 email chain between persons at email addresses at @extremenetworks.com and at @broadcom.com, produced in discovery by Brocade. The persons with @broadcom.com email addresses are Tyrene Partlow and Simone Yew. Tyrene Partlow's signature block identifies her as "Sr. Contracts Manager, Broadcom Legal Department, 1320 Ridder Park Dr., San Jose CA 95131." According to Broadcom Inc.'s form 10Ks filed with the SEC each year from 2018 to the present, Broadcom Inc.'s address is at 1320 Ridder Park Dr., San Jose CA 95131. Attached as Exhibit 63 is a combined excerpt of Broadcom Inc.'s 10-K filings that list the 1320 Ridder Park Dr. address its Principal Executive Address. I accessed these 10-K filings on Broadcom.com at <https://investors.broadcom.com/financial-information/annual-reports>.

60. As shown in Exhibit 62, Sunil Chitnis (at an @extremenetworks.com email address wrote to Jennifer Sipes (at an @extremenetworks.com email address) and stated: "Both VDX and SLX platforms use SNMP Research's Emanate Lite as their embedded SNMP agent." Ex. 62 at BROCADE00050646. The VDX and SLX platforms are allegedly infringing products being sold by Extreme (Complaint ¶ 49). Jennifer Sipes and Sunile Chitnis discussed the need for an SNMP license. See Ex. 62 at BROCADE00050646. Jennifer Sipes wrote to Tyrene Partlow (at @broadcom.com) to

discuss the license, and after back and forth communications, Sipes said to Partlow on September 17, 2018: “Our engineering team told me that we need the license for SLX, and that it was part of the asset purchase. Would you please provide me more specifics about how Broadcom is using the software?” *Id.* at BROCADE00060645.

61. Attached as Exhibit 64 is a copy of a letter dated August 1, 2019 letter, produced by defendant Extreme Networks Inc. (“Extreme”) during discovery in this action. EXTREME00008086-87. In this letter, Simone Yew identifies herself as “Associate General Counsel, Broadcom, Inc.,” and identifies Broadcom’s address at 1320 Ridder Park Drive, San Jose CA 95131. Simone Yew wrote to Extreme, “I refer to the Asset Purchase Agreement between Brocade Communications Systems, Inc. (‘Brocade’), a wholly owned subsidiary of Broadcom Inc. (‘Broadcom’), and Extreme Networks, Inc. (‘Extreme’) dated October 3, 2018 (the ‘APA’).” Simone Yew confirmed that “Brocade did not transfer, and Extreme did not receive, a license or sublicense under the Agreement to use SNMPRI software in its products.”

62. Attached hereto as Exhibit 65 is a copy of a September 2018 email chain between Jennifer Sipes at @extremenetworks.com and, among others, Simone Yew at @broadcom.com, produced in discovery by Brocade. Jennifer Sipes writes to Simone Yew: “We need to get this resolved. The licensor needs to understand for what Broadcom is using the SNMP license. As far Extreme and SNMP know/understand, that license should have come over with the Brocade assets, in its entirety.”

63. Attached hereto as Exhibit 66 is a copy of a document produced in discovery by Brocade, entitled “OEM Sales Agreement” and executed September 13, 2019. The parties identified in that agreement are [REDACTED] on the one hand, and on the other hand, [REDACTED]

[REDACTED]

[REDACTED]

An excerpt is below with

highlighting for emphasis:

OEM SALES AGREEMENT

[REDACTED]

64. Annex A-1 of the OEM Sales Agreement (Exhibit 66) contains a [REDACTED] for the products at issue, including for the infringing products. *See* Exhibit 66 at BROCADE01041370.

65. Annex C-1 of the OEM Sales Agreement (Exhibit 66) contains a [REDACTED]

[REDACTED]

[REDACTED]. *See* Exhibit 66 at BROCADE01041381.

66. Attached as Exhibit C to the Declaration of Jeff Case filed concurrently herewith is a March 16, 2020 email (with attachments, including a proposed License Agreement) from Martin Skagen (at an @broadcom.com email address) that seeks licenses to SNMP's software for two Broadcom Inc. affiliates, [REDACTED]. *See* Exhibit C to the Case Decl. at p. 3 of the document entitled "License Agreement." [REDACTED] is one of the parties to the OEM Sales Agreement discussed in paragraph 63 above. Moreover, Mr. Skagen's request for licenses [REDACTED] [REDACTED]. *See* Exhibit C to the Case Decl. at p. 3 of the document entitled "License Agreement."

67. Attached hereto as collective Exhibit 67 are two documents produced by Brocade during discovery. The first is an email chain between people at @broadcom.com email addresses and people at an [REDACTED] email addresses discussing an email from people at [REDACTED] [REDACTED] with respect to 7840 switches (which are alleged infringing products in this

case). These documents demonstrate that, for at least some entities, Brocade/Broadcom directly

## II. BROADCOM INC.'S INDIRECT MARKETING AND SALES

68. Attached hereto as Exhibit 68 is a Tennessee Secretary of State Filing Information form that I downloaded from the Tennessee Secretary of State's webpage at

<https://tnbear.tn.gov/Ecommerce/FilingDetail.aspx?CN=117105158060085239212253125006211185199026211043>, which states that Brocade Communication Systems LLC is registered to do business in Tennessee. It reports an "Initial Filing Date" of 12/21/2006 and that Brocade's status is "active."

69. Manually submitted with this exhibit are Exhibits 200-218, which are spreadsheets produced by Brocade in discovery (herein [REDACTED]). These [REDACTED] are located at Bates numbers BROCADE00700272-BROCADE00700290.

70. Plaintiffs propounded an interrogatory (interrogatory 9 to Brocade and Broadcom) asking: "Interrogatory 9 requested Brocade to "[i]dentify the revenues and costs of any other Products or services (including but not limited to installation or other services) that were sold with or as a result of the purchase of the Products Identified in response to Interrogatory numbers 1 and 2. Please delineate the aforementioned revenues and costs by Product or service name." On April 22, 2022, Magistrate Judge Poplin ordered Defendants to "fully respond" to this interrogatory (among others). Dkt. 131.

71. Broadcom Inc. did not answer this interrogatory because it took the position that no products were responsive to Interrogatory numbers 1 and 2, and that it is a holding company. A copy of Broadcom Inc.'s response to this interrogatory is attached as Exhibit 69. Brocade responded to this interrogatory by objecting to the extent it did not "track" this information, and by pointing to several categories of documents. A copy of Brocade's response to this interrogatory is attached as Exhibit 1.

72. In meet and confer correspondence that I had with counsel for Defendants, I asked

Defendants to please provide a Bates number for the document(s) generally referenced in their interrogatory response that reflect such revenues. In response, Defendants claimed that the information I requested, and that was responsive to Interrogatory 9, was in the [REDACTED]. Attached hereto as Exhibit 70 is a copy of the email chain (see bracketed text at page 5).

73. Based on Plaintiffs' preliminary analysis of the [REDACTED], Brocade and/or Broadcom Inc. [REDACTED]

[REDACTED]. A more detailed breakdown of this calculation is set forth in the Declaration of Mike Wallace ("Wallace Declaration"), a financial expert, filed concurrently with this declaration. Given Defendants' representations during the discovery meet and confer over their response to Interrogatory 9 (discussed in the four paragraphs immediately preceding this one), [REDACTED]

74. Even putting aside Defendants' representations during meet and confers over Interrogatory 9, [REDACTED]

[REDACTED]. Specifically, I asked Mike Wallace to [REDACTED] produced by Brocade in discovery and determine what percentage of Brocade's sales were for products alleged to be infringing.<sup>2</sup> Mr. Wallace calculated it to be [REDACTED]. See Wallace Decl.

75. Given these statistics, it is reasonable to infer (at least at this early stage of the litigation) that, [REDACTED]

76. In addition, I asked Mr. Wallace to calculate how much in sales of products that are not currently alleged to be infringing took place from 2017 to present to companies in Tennessee, and he

---

<sup>2</sup> As noted above, Brocade has represented that most of its sales are to OEMs and/or distributors who then sell to end users. Ex. 1 at 25 ("Brocade primarily sells its products to OEMs").



calculated it to be [REDACTED]. See Wallace Decl.

77. Attached hereto as Exhibit 71 is a copy of Brocade's predecessor's Form 8-K dated November 21, 2017, which I accessed from Broadcom Inc.'s website at <https://investors.broadcom.com/static-files/7a44d7d7-f17f-4cd5-b232-411a5d28f84f>. In that filing, Brocade's predecessor (Brocade Communications Systems, Inc.) reports a "Departure of Directors," stating that in accordance with the terms of the Merger Agreement with Broadcom Limited (Broadcom Inc.'s predecessor), Brocade's predecessor's directors and officers will "cease[] to serve" and "Hock E. Tan and Thomas H. Krause, Jr., as directors of the surviving corporation, appointed Jack Rondoni to serve as a director and elected the following officers to serve. . . (i) Hock E. Tan as President and Chief Executive Officer, (ii) Thomas H. Krause, Jr. as Chief Financial Officer and Secretary, (iii) Jack Rondoni as Vice President[.]"

78. Defendants submitted the Declaration of John Rondoni in support of their motion to dismiss (Dkt. 40-4). In it, Mr. Rondoni declares that "I am the Senior Vice President and General Manager of Storage Networking at Brocade Communications Systems." As noted above (¶ \_\_), on [www.broadcom.com](http://www.broadcom.com), Mr. Rondoni is identified as "Senior Vice President and General Manager, Brocade Storage Networking Division at Broadcom." (Emphasis added.) Attached hereto as Exhibit 72 is a slide deck entitled "Broadcom Inc. Company Overview September 2019," which I downloaded and printed from <https://investors.broadcom.com/static-files/de1e7f91-3ac6-4596-8703-5834314c6e75>. Broadcom Inc.'s "Division Leadership" is listed on page 15 and includes Jack Rondoni (see bracketed text).

79. In his declaration (Dkt. 40-4), Mr. Rondoni identifies two current "employees of Brocade" that he contends have knowledge relevant to Plaintiffs' claims," Vamsi Balimidi and Martin Skagen.

80. With respect to Mr. Balimidi, attached hereto as Exhibit 73 is a copy of his Linked-In

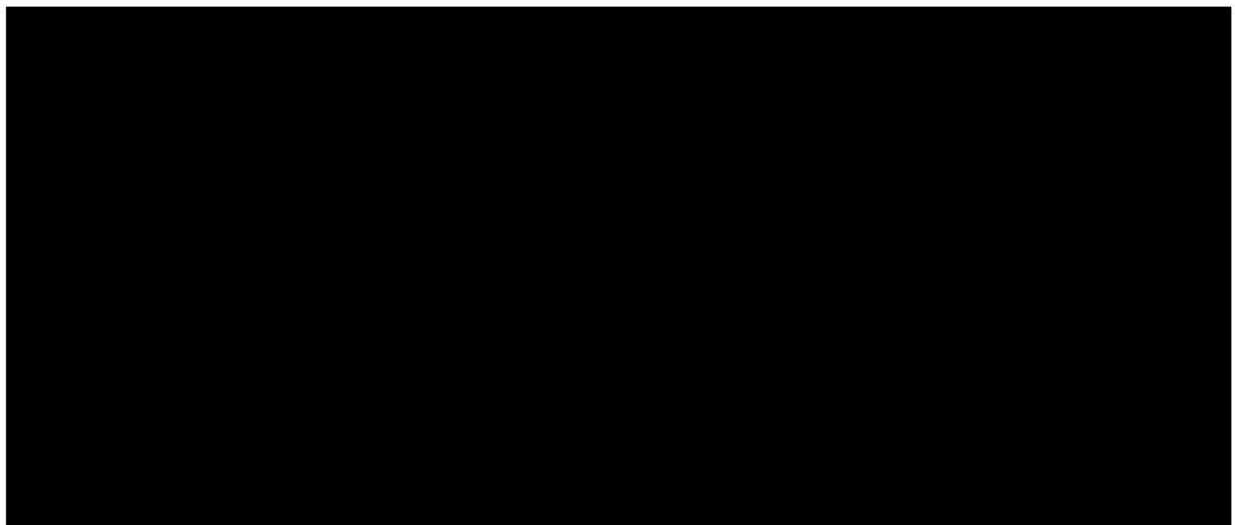
webpage, in which he states that he is a “Sr Manager at Broadcom (Brocade).”

81. With respect to Mr. Skagen, attached hereto as Exhibit 74 is an email produced by Brocade in discovery, addressed from Mr. Skagen to Dr. Jeffrey Case (of SNMP) wherein Mr. Skagen identifies himself as:

Regards

Martin Skagen  
VP Architecture & Technology, BSN  
Broadcom Inc

82. Attached hereto as Exhibit 75 is an email Brocade produced in discovery. In it, someone with an @broadcom.com email address (Tarun Bhatia) writes to Mr. Skagen:



83. Attached hereto as Exhibit 76 is another page from the Broadcom Inc. website located at <https://www.broadcom.com/news/product-releases/fibre-channel-with-new-nvme-storage-and-san-automation-technology>, which refers to Brocade as a “division” of Broadcom. *See also* Ex. 41 (Broadcom Inc. webpage describing Jack Rondoni is the Senior Vice President and General Manager, Brocade Storage Networking Division at Broadcom).

84. Attached hereto as Exhibit 77 are select portions of Broadcom Inc.’s SEC Form 10-K for the year 2020, which I downloaded from Broadcom Inc.’s website at

<https://investors.broadcom.com/static-files/af05a86f-ca9e-4a2f-9af6-709e5a9be54b>. In it, Broadcom Inc. states that it provides consolidated financial statements (including a balance sheet), and expressly states that its consolidated financial statements “include the results of operations of . . . Brocade commencing as of their respective acquisition dates.” *See* p. 62 (bracketed language). It also states that: “Current assets also included assets held—for-sale for Brocade’s headquarters, which was sold for \$224 million during fiscal year 2018[.]” *See* p. 75 (bracketed language). It further states: “Our results of continuing operations for fiscal year 2018 included \$1,780 million of net revenue attributable to Brocade. It was impracticable to determine the effect on net income attributable to Brocade as we had integrated a substantial portion of Brocade into our ongoing operations.” *See* p. 76 (bracketed language). Broadcom Inc. identifies its address as 1320 Ridder Park Drive, San Jose, CA 95131-2313.

85. In its 2020 and 2022 Statements of Information (Exs. 57, 59), Brocade identifies its address as 1320 Ridder Park Drive, San Jose, CA, the same address as Broadcom Inc.

86. Attached hereto as Exhibit 78 are excerpts from the year 2016 Form 10K for Brocade Communication Inc. (Brocade’s predecessor), which was the year prior to Broadcom’s acquisition of Brocade. I accessed this 2016 Form 10K from Broadcom Inc.’s website at <https://investors.broadcom.com/static-files/b0747fce-3505-44f3-8972-a87271e826a0>. In this Form 10K for the year 2016, Brocade listed its address as 130 Holger Way, San Jose, California.

87. Attached hereto as Exhibit 79 is a document entitled “Accounting Memorandum” that was attached to an October 29, 2020 email between persons with @extremnetworks.com email addresses. This Accounting Memorandum and accompanying email were produced by defendant Extreme in discovery. In the Accounting Memorandum, Extreme describes [REDACTED]

[REDACTED]  
[REDACTED]. *See* EXTREME00631799-800 (bracketed language).

88. [REDACTED] can be seen in an “Amendment 1 to Asset Purchase Agreement” (whereupon Brocade’s contractual right to 5 years of profit participation in the Data Center business it sold to Extreme was reduced to \$0). Attached as Exhibit 80 is a copy of “Amendment 1 to Asset Purchase Agreement,” which I found in SEC Exhibit 2.8 to Extreme’s 2018 Form 10-K that I downloaded from [https://www.sec.gov/Archives/edgar/data/1078271/000156459018022453/extr-ex28\\_80.htm](https://www.sec.gov/Archives/edgar/data/1078271/000156459018022453/extr-ex28_80.htm). A copy of the agreement that it amended, the Asset Purchase Agreement, is attached hereto as Exhibit 81. It was attached as SEC Exhibit 2.1 to Extreme’s October 3, 2017 8-K that I downloaded from <https://investor.extremenetworks.com/static-files/3270a20a-ea45-447c-bb4c-0ef95eadc605>. The amended provision is at Section 2.4 of the Asset Purchase Agreement. The parties to both agreements are identified as Brocade and Extreme.

89. The first recital of Amendment No. 1 to the Asset Purchase Agreement (Exhibit 81) states: “WHEREAS, in connection with the concurrent execution of certain agreements between the Parties (or, in some cases, Affiliates of the Parties), the Parties wish to modify the Agreement in certain respects.” (Emphasis added.)

90. Attached hereto as Exhibit 82 is a copy of a document entitled [REDACTED] [REDACTED] that was produced by Extreme in discovery. It bears the same title and has the same effective date (May 6, 2018) as the document described in Extreme’s Accounting Memorandum as part of the quid pro quo for [REDACTED] [REDACTED]. However, the [REDACTED] is not between Extreme and Brocade, it is between Extreme and two entities identified as: [REDACTED] [REDACTED]. Those two entities are then defined as “collectively, ‘Broadcom.’” Exhibit 82, at 1 (bracketed text).

91. Attached as Exhibit 83 is an excerpt from Broadcom Inc.’s SEC Form 10K for the year 2021, where it lists its “Significant Subsidiaries.” Brocade is not listed, nor was it listed in Broadcom Inc.’s SEC Form 10K for the year 2020 (*see*, Exhibit 77, at p. 158).

92. Attached as Exhibit 84 is a combined copy of three Broadcom Inc. organizational charts produced by Brocade. The chart beginning at BROCADE0015871 pertains Broadcom Inc.’s predecessor, Broadcom Limited.

93. Defendants have not produced Brocade’s balance sheet or any other document reflecting its current assets and liabilities or its assets and liabilities for the years 2017 through present, even though Brocade was ordered to do so on April 22, 2022. (Dkt. 131 (April 22 Order at 18); *see* Dkt. 115 (Category 5 listing RFP numbers 43 and 47)). The April 22, 2022 Order directed Brocade to “fully respond” to Plaintiffs’ discovery (including RFP numbers 43 and 47) within three weeks (i.e. May 13, 2022). When that date passed with no production of the information, I sent a letter to Brocade asking for it. It is attached as Exhibit 85 (see bracketed text at p. 5). I then engaged in meet and confer correspondence with Brocade over it. That correspondence is attached as Exhibit 70, *supra*. Brocade generally references its production of other financial material—but none of it has Brocade’s assets and liabilities from 2017 to the present as ordered. This is now the subject of a pending motion to compel. Dkt. 151 at 18-19.

94. I have identified the following Tennessee entity names in Brocade’s production.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. Attached as Exhibit 86 is a combined PDF of the Tennessee Secretary of State “Filing Information” downloaded from <https://sos.tn.gov/businesses> on July 21, 2022. Each of these “Filing Information” form reflects principal addresses for the corporate [REDACTED] listed above, with the exception of [REDACTED] [REDACTED] form, and with the exception of [REDACTED]. Because [REDACTED] are public companies, Exhibit 86 also includes the cover pages of their most recent 10-K SEC filings, which list Tennessee addresses for [REDACTED]. Based on this information as well as the names of the Tennessee [REDACTED] [REDACTED] included in the list above, I infer that these entities are Tennessee entities.

95. Attached hereto as Exhibit 87 is a copy of a document entitled “Brocade Communications Systems, Inc. Amended and Restated Inducement Award Plan” that was attached as Exhibit 10.32 to Broadcom Inc.’s 2019 Form 10-K on file with the SEC. On the first page, it identifies the “Purposes of the Plan: The purposes of this Plan are: to provide an inducement material to individuals entering into employment with the Company . . . to promote the success of the Company’s business.” Ex. 87 at 5 (see brackets). The document defines “Common Stock” to mean “common stock of the Company,” and “‘Company’ means Brocade Communications Systems, Inc., a Delaware corporation, or any successor thereto.” Ex. 87 at 7 (see brackets). Combined with Exhibit 87 is a copy of a document entitled “Amendment to the Brocade Communications Systems, Inc. Amended and Restated Inducement Award Plan” that was attached as Exhibit 10.34 to Broadcom Inc.’s 2019 Form 10-K. This document replaced the defined terms “Common Stock” and “Company” and provides that “‘Common Stock’ means the common stock of the Company” and “‘Company’ means Broadcom Inc., a Delaware corporation.” Ex. 87 at p. 24 (see brackets).

Executed this 22nd day of July, 2022, at Newport Beach, California.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/ Olivia L. Weber  
Olivia L. Weber